

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05-cv-238-GCM

WILLIAM PENDER, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	ORDER
)	
BANK OF AMERICA, et al.,)	
)	
Defendants.)	
_____)	

This matter is before the court on Defendants’ Motion to Strike Plaintiffs’ Purported Cross-Motion and Summary Judgment Response Memoranda, [Doc. No. 302], Plaintiffs’ opposition, [Doc. No. 304], and Defendants’ reply, [Doc. No. 305].

On December 11, 2013 this Court held a status conference whereby the Court directed that both parties file summary judgment motions on or before January 31, 2013. [Doc. No. 290]. On January 28, 2013, the parties filed a consent motion, which the Court granted, asking that the deadline to file summary judgment motions be extended through February 15, 2013. [Doc. No. 292]. On February 15, 2013, both parties filed summary judgment motions. [Doc. Nos. 293 and 295]. On February 28, 2013, the Court granted a consent motion that responses to the pending motions for summary judgment be filed on or before March 19, 2013 and replies be filed on or before April 12, 2013. Consistent with that Order, Plaintiffs and Defendants filed their opposition to each of the summary judgment motions on March 19, 2013. [Doc. Nos. 298 and 300]. However, on March 19, 2013, Plaintiffs also filed a cross motion for summary judgment on the statute of limitations issue initially raised in Defendants’ summary judgment motion. [Doc. No. 299]. In response, Defendants filed the instant motion to strike Plaintiffs cross motion arguing that Plaintiffs cross motion for summary judgment was filed a month after the deadline

for filing summary judgment motions and that Plaintiffs' cross motion was an attempt to evade the page limitations in the local rules and to have the "last word" on Defendants' motion via a reply brief on their purported cross motion.

The Court has considered the briefing and concludes that Defendants' Motion to Strike is GRANTED. The Court will strike Plaintiffs' response brief and cross motion [Docs Nos. 299 and 300] and direct Plaintiffs to re-file the same as one 25 page response brief to Defendants' Motion for Summary Judgment within ten (10) days of the date of this Order. Defendants may file a reply brief in accordance with the Rules of Civil Procedure. There will be no further briefing on Defendants' Motion for Summary Judgment unless directed by this Court.¹ To the extent that this schedule needs to be modified, the Court would consider a motion for an extension of time.

SO ORDERED.

Signed: March 27, 2013

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge



¹ To the extent that Plaintiffs are concerned about the Court's ability to grant summary judgment for a nonmovant, the Court directs Plaintiffs' attention to Fed. R. Civ. P. 56(f)